

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
SECURITIES EXCHANGE COMMISSION,

Plaintiff,

17-cv-8223 (PKC)

-against-

ORDER

MOHAMMED ALI RASHID,

Defendant.

CASTEL, U.S.D.J.

The parties to this forthcoming civil bench trial have been required to file the direct testimony of trial witnesses within their control. Plaintiff has done so. (Doc 100-106.) Similarly, defendant has filed the direct testimony of four character witnesses, one fact witness, two expert witness and the defendant, himself. (Doc 112-114.)

Defendant Rashid has also identified 11 current employees of his former employer, Apollo Management, L.P. (“Apollo”) as trial witnesses who are not within his control and for whom direct testimony need not be filed. Apollo’s counsel contends that they have “no relevant, noncumulative testimony to offer” and that none were examined at deposition in pretrial discovery (Ehrlich Ltr., Oct. 17, 2019 at 1.) (Doc 126.) Apollo’s counsel further contends that, when pressed, each of the 11 have been described by defense counsel as in the “may call,” rather than “will call,” witnesses. (*Id.*, Ex. A.) Rule 26(a)(3)(i), Fed. R. Civ. P.,

Rule 16(c)(2)(D), Fed. R. Civ. P., expressly provides that a court may consider at any pretrial conference “avoiding unnecessary proof and cumulative evidence. . . .” Rule 16(e) provides that a final pretrial conference the court may “formulate a trial plan. . . .” Rule 403, Fed. R. Evid, empowers the trial court to exclude relevant evidence where its probative value is substantially outweighed by a danger of “undue delay, wasting time or needlessly presenting cumulative evidence. The Final Pre-Trial Conference in this action has been scheduled for December 3, 2019 at 2 p.m.

To assist the Court in its trial management responsibilities and in aid of the Final Pre-Trial Conference, defendant Rashid shall file by November 3, 2019 a detailed description of the expected trial testimony of each of the 11 Apollo witnesses. The descriptions shall be signed and filed in accordance with Rule 11(a), Fed. R. Civ. P., and shall be in sufficient detail to enable the Court to rule whether the testimony is likely to be unnecessary, cumulative or a waste of time.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
October 21, 2019